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LETTER DATED 18 AUGUST 1998 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith the interim report of the International Commission of Inquiry (Rwanda) submitted to me by the Chairman of the Commission in pursuance of Security Council resolution 1161 (1998) of 9 April 1998.

You will note from section V, Administrative and budgetary aspects, the difficulties that the Commission has experienced and that have hampered it in its work. The Commission is financed entirely from the United Nations Trust Fund for Rwanda established for that purpose, to which a number of Member States have offered to contribute. Of the approximately $710,000 pledged by Member States, some $425,000 has been received. I would therefore urge those Governments that have pledged but not yet disbursed contributions to the Trust Fund to do so as soon as possible, in order to enable the International Commission to pursue its inquiries and complete its work in a timely manner.

In accordance with resolution 1161 (1998), it would be my intention to request the Commission to submit to the Security Council a final report before the end of November 1998.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(Signed) Kofi A. ANNAN

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Annex

[Original: English/French]

Interim report of the International Commission of Inquiry (Rwanda)

I. INTRODUCTION

1. By paragraph 1 of its resolution 1161 (1998) of 9 April 1998, the Security Council requested the Secretary-General to reactivate the International Commission of Inquiry, with the following mandate:

> "(a) To collect information and investigate reports relating to the sale, supply and shipment of arms and related matériel to former Rwandan government forces and militias in the Great Lakes region of central Africa, in violation of Security Council resolutions 918 (1994), 997 (1995) and 1011 (1995);
>
> "(b) To identify parties aiding and abetting the illegal sale to or acquisition of arms by former Rwandan government forces and militias, contrary to the resolutions referred to above; and
>
> "(c) To make recommendations relating to the illegal flow of arms in the Great Lakes region".

2. The International Commission of Inquiry was established pursuant to Security Council resolution 1013 (1995) of 7 September 1995, and it conducted investigations in the Great Lakes region and elsewhere between October 1995 and October 1996. The Commission's reports can be found in documents S/1996/67, S/1996/195, S/1997/1010 and S/1998/63.

3. In a letter addressed to the President of the Security Council dated 27 May 1998 (S/1998/438), the Secretary-General notified the President of the Security Council that the membership of the Commission was as follows:

Mr. Mahmoud Kassem (Egypt) (Chairman);
Brigadier-General Mujahid Alam (Pakistan);
Mr. Gilbert Barthe (Switzerland);
Mr. Mel Holt (United States of America).

The Commission is assisted in the field by a political officer and a secretary.

II. DEVELOPMENTS IN THE SITUATION SINCE 1995-1996

4. Following a series of briefings and consultations with members of the Security Council, representatives of other interested Member States and Secretariat officials from 4 to 8 May 1998 at United Nations Headquarters, the Commission re-established itself at its headquarters in Nairobi on 13 May. Some

members of the Commission visited London en route for consultations, as described below.

5. Upon its return to Nairobi, it quickly became clear to the Commission that the circumstances in which it was pursuing its investigations had been transformed since the period 1995-1996. At that time, the former Rwandan government forces were overwhelmingly concentrated in north Kivu province of what was then eastern Zaire, with smaller numbers in south Kivu and in the north-western part of the United Republic of Tanzania. There was then, and apparently still is, significant organized support for the former Forces armées rwandaises (FAR) in Kenya, where members of the Rwandan Hutu community have been engaged in raising money to buy arms.

6. Just as the Commission was completing its third report (S/1997/1010) in late October 1996, the Banyamulenge and their allies launched an uprising in Kivu that began with attacks on the refugee camps and ex-FAR concentrations there and culminated in the overthrow of the Mobutu regime and the founding of the Democratic Republic of the Congo. It was those tumultuous events that radically transformed the situation being investigated by the Commission and, incidentally, led to a delay of more than one year in the publication of the Commission's third report.

7. Thus, although the mandate adopted by the Security Council in reactivating the International Commission of Inquiry on 9 April 1998 (resolution 1161 (1998)) was essentially the same as that originally contained in resolution 1013 (1995) of 7 September 1995, the Commission has been obliged to adopt a different approach to its investigations necessitated by its absence from the region for 19 months. Nearly two years of violent upheavals have left remnants of the ex-FAR scattered across the African continent, to the point where the first task facing the Commission was to establish their whereabouts and current activities and, to the extent possible, their military capacities and intentions. In order to mount a systematic investigation into the sale or supply of arms to the former Rwandan government forces and to identify parties aiding and abetting them, the Commission has travelled widely throughout Africa. A list of the countries visited and representatives of Governments and organizations interviewed is contained in appendix I.

III. ACTIVITIES OF THE INTERNATIONAL COMMISSION OF INQUIRY

A. Activities in Kenya

8. In Nairobi, the Commission resumed the contacts it had established during the period 1995-1996 and initiated additional contacts among Kenyan government officials, the diplomatic community, United Nations agencies, non-governmental organizations, members of civil society and private individuals.

9. On 18 May 1998, the Chairman of the Commission wrote to the Minister for Foreign Affairs, Mr. Bonaya Godana, requesting a meeting to acquaint his Government with the nature and purpose of the Commission and to request his assistance and cooperation. The Chairman also wrote on the same day to the Attorney General of Kenya, Mr. Amos Wako.

10. At his meeting with the Foreign Minister on 22 May, the Chairman requested his assistance in placing the Commission in contact with senior officials from the Ministry of the Interior, the armed forces and customs, police, civil aviation and intelligence officers who might be in a position to assist the Commission in its inquiries. Minister Godana pledged his Government's cooperation and agreed to designate a liaison officer to work with the Commission in its dealings with other government officials.

11. Despite repeated attempts on the part of the Commission to follow up on the Minister's offer of assistance, including a second letter from the Chairman to the Minister dated 15 July 1998, no liaison officer has yet been appointed. No reply has been received to the 15 July letter.

12. The Commission has also attempted, without success, to meet with the Attorney General, who has been travelling outside the country, or with a representative of his office. The office of the Attorney General has confirmed receipt of a second letter to him from the Chairman dated 10 June 1998 requesting an appointment, but has not yet replied, nor has it responded to subsequent telephone calls.

13. From 9 to 11 July, two commissioners visited the Kakuma refugee camp and Lokichokio in northern Kenya, in connection with reports of the trans-shipment of weapons from the Horn of Africa to the Great Lakes region. They met with United Nations officials and aid workers, as well as with refugees.

14. Numerous sources in Kenya impressed upon the Commission that Rwandan Hutus continued to be very active in the country in raising funds, maintaining political organizations, seeking external support, recruiting soldiers and procuring false passports.

15. While in Nairobi during the period 1995-1996, the Commission had met with Mr. Seth Sendashonga, a former Minister of the Interior (1994-1995) in the Government of Rwanda, who was a member of and retained close links with the Rwandan Hutu community. Mr. Sendashonga had at that time broken with the Government and resumed his links with the Hutu community. Shortly after meeting with the Commission in February 1996, Mr. Sendashonga was wounded by gunfire in Nairobi in an assassination attempt, from which he subsequently recovered. The Commission attempted to meet with him again on its return to Nairobi in May 1998, but Mr. Sendashonga was shot dead two days before the appointment could take place.

16. The Commission has discovered that in Nairobi and in the Kakuma refugee camp, personalities close to the late Mr. Sendashonga are still actively recruiting young men for their military training camps in Lukole and Karagwe, United Republic of Tanzania. Various sources report that the purpose of Mr. Sendashonga's involvement in creating a militia was "to open a new front" in eastern Rwanda. It is understood that recruitment and training have continued since his death.

17. These sources further indicate that in Nairobi, a group of Hutu extremists under the leadership of Major André Bizimana is exerting pressure on refugees and running counter-intelligence operations. There is a common understanding

among various sources that some of the proceeds of the many appeals for funds by church groups and women's organizations are used to finance military activities.

18. The political organization Peuple en armes pour la libération du Rwanda, which issues pamphlets distributed in Rwanda and elsewhere, is represented in Nairobi by two individuals who inform the press agencies about the military successes of the insurgents in Rwanda.

19. On 2 August, the Commission met with a delegation from the Human Rights Watch Arms Project, including its Executive Director, Mr. Joost Hiltermann, as part of its long-standing dialogue on issues of mutual concern. Mr. Hiltermann discussed with the Commission a forthcoming meeting of non-governmental organizations in Canada on the issue of small arms and a joint governmental and non-governmental organization meeting in October in Belgium on the gravity of the problem of small-arms flows in Africa and the great interest in the Commission's work among civil society institutions.

B. Activities in Rwanda

20. Members of the Commission visited Rwanda three times, from 3 to 6 June, from 1 to 4 July and from 13 to 17 July. They met several times in Kigali with government officials, members of the diplomatic community, United Nations officials and officials of the International Criminal Tribunal for Rwanda, as well as members of non-governmental organizations.

21. On 4 June 1998, the full Commission met with the Minister of State for Defence, Lt.-Col. Emmanuel Habyarimana, accompanied by other senior Rwandan government officials. The Minister welcomed the Commission and pledged his Government's cooperation.

22. The Chairman of the Commission recalled that in November 1996, the Banyamulenge and its allies had attacked the Mugunga refugee camp in what was then eastern Zaire. Besides Rwandan civilian refugees, a concentration of former Rwandan government forces and militia also inhabited the camp. Journalists entering Mugunga shortly after the attack reported finding documents bearing the names of companies that had apparently sold weapons to the former Rwandan government forces. Upon learning of those accounts, the Chairman had written to the Government of Rwanda, on 21 November 1996, requesting the Commission's access to the documents reportedly found at the camp. At his meeting with Minister Habyarimana, the Chairman requested to be allowed to examine the documents, to inspect weapons seized in recent engagements between the Rwandan Patriotic Army (RPA) and insurgents, and to interview some of the captured insurgents. The Chairman also requested that a liaison officer be designated to assist the Commission. At the invitation of the Government, the Chairman subsequently put his requests in writing.

23. The liaison officer appointed by the Government, Lt.-Col. Patrick Karegeya, the Chief of External Intelligence of RPA, promised the cooperation of his Government to the extent possible without compromising sensitive intelligence sources and operations. At his invitation, the Commission has begun to study some of the documents seized at Mugunga camp in November 1996. However,

according to Lt.-Col. Karegeya, many documents were removed by journalists at the time and are not in the possession of the Rwandan Government.

24. Following an agreement reached with the Deputy Prosecutor of the International Criminal Tribunal for Rwanda, Mr. Bernard Muna, Commission members met with him and his staff during June and July.

25. The Commission understands that the ex-FAR, or at least the part operating inside Rwanda, refers to itself as the Armée pour la libération du Rwanda (ALIR) and were under the operational command of Lt.-Col. Leonard Nkundiye until his death on 24 July 1998 in a fight with RPA inside Rwanda.

26. From the Commission's numerous discussions and meetings in Kigali, a broad range of opinions emerged that the insurgency in Rwanda, particularly in the north-west, represented a significant security threat to the Government and that the former Rwandan government forces and militia were responsible. There was a unanimous belief that in many recent attacks on civilians and in ambushes of RPA patrols, the insurgents tended to use only small arms or machetes. Nevertheless, it was widely believed that they were in possession of larger stocks of more sophisticated armaments and might be using machetes rather than firearms for psychological effect. Many believed that they were biding their time in preparation for more destructive attacks, the objective of which was eventually to regain power.

27. Some indication of the intentions and possible strength of the insurgents was gained from an underground newspaper published at Gisenyi and distributed secretly as far as Kigali. This propaganda paper, called Umucunquzi, or "Saviour", purports to describe the activities of ALIR. The paper accuses the Rwandan Patriotic Army of a campaign of massacre against the people of Rwanda and threatens to extend the struggle against the Government to all parts of the country. In order to demonstrate their freedom of movement within Rwanda, their discipline and their efficiency, the insurgents have also kidnapped missionaries and nuns they believe to be sympathetic to their cause. They are then released unharmed to make public statements about how well they have been treated while in captivity.

C. Activities in South Africa

28. During the period 1995-1996, the Commission visited South Africa and established numerous official and private contacts with those who were knowledgeable about arms flows throughout Africa generally and about the situation in the Great Lakes region in particular. Among the Commission's interlocutors was Mr. Willem Ehlers, who had brokered the weapons sale described in some detail in the Commission's first substantive report (S/1996/195), which the Commission had concluded was a highly probable violation of the Security Council embargo. In order to re-establish those contacts and to learn the latest developments, the Commission visited South Africa from 22 to 29 July 1998.

29. The Commission met with a number of senior government officials, including the Minister of Justice, Mr. Abdulah H. Omar; the Director-General of the

Department of Foreign Affairs, Mr. Jakkie Selebe; the Deputy Director-General of the Department's Multi-Affairs Branch, Mr. Abdul S. Minty; the Chairman of the National Conventional Arms Control Committee, Professor Kader Asmal; the Deputy Director-General of the Secret Service, Mr. Barry Gilder; representatives of the National Intelligence Coordinating Committee and the National Interdepartmental Structure for Border Control; and others in a wide range of academic and non-governmental circles.

30. The Commission's interlocutors in the South African Government made clear the Government's determination to curtail the illegal shipment of arms from and through its territory. To that end, the Government was reducing to 10 the number of airports permitted to handle international flights in order to promote better compliance with laws governing illegal arms trafficking. The Government was also aware of the difficulty of controlling illegal arms transfers by road across its extensive borders and through the some 3,000 airfields located throughout the country. The Government had also adopted legislation to curtail the activities of South African companies and individuals seeking to profit by the sale and supply of weapons and the provision of military training abroad. Government approval of such activities was now granted only if strict guidelines, including adherence to United Nations embargoes and compliance with end-user certificates, were met. The National Conventional Arms Control Committee reviewed requests for the sale of arms and non-lethal military equipment and denied those it considered unwarranted. Where the Committee became aware of apparent violations, it sought to have them investigated. The Government of South Africa had placed the issue of illegal arms transfers on the agenda of the Organization of African Unity, resulting in the adoption of a resolution requesting Governments to provide information on its transfers and receipts of weapons.

31. Nevertheless, information made available to the Commission by knowledgeable and reliable sources concerning, inter alia, the alleged transport of arms from South African territory to the Great Lakes region by road via Zimbabwe and Zambia suggests that the scale of illegal trafficking appears to exceed the present capacity of the Governments concerned to control it in full accordance with their laws.

D. Activities in Uganda

32. The Commission visited Kampala from 5 to 10 July 1998 and held a total of 19 meetings with government officials, members of the diplomatic community, officials of United Nations agencies, representatives of non-governmental organizations and others. The government officials included Mr. Muluri Mukasa, the Minister of State for Security; Mr. Tom Butime, the Minister for Internal Affairs; Mr. Amama Mbabazi, the Minister of State for Political Affairs; and Mr. Rukahana Rugunda, Minister of State for Foreign Affairs.

33. In their meetings with the Commission on 7 and 10 July 1998, Minister Mukasa and Minister Rugunda informed the Commission that small groups of the ex-FAR and Interahamwe militia were operating in western Uganda. The Government of Uganda understood that elements of the former Forces armées zaïroises (ex-FAZ) were collaborating with ex-FAR elements in the eastern part of the

Democratic Republic of the Congo, taking advantage of a degree of support among the local population and the tenuous control exercised over the province from Kinshasa. Those armed groups financed themselves partly through gem mining and support from some local traders said to be opposed to the Kabila Government.

34. The Commission's other interlocutors provided it with a greatly improved understanding of the complex and volatile situation along Uganda's border with the Democratic Republic of the Congo as well as the continuing activity of the former Rwandan government forces in the area and their links with other armed groups.

35. The Ugandan People's Defence Force has reportedly engaged the ex-FAR inside Uganda. Ex-FAR elements had also reportedly established armed camps in the vicinity of Kisoro, north of Goma. The ex-FAR were said to be the best organized of the many armed groups operating in North Kivu province of the Democratic Republic of the Congo, having forged close links with remnants of FAZ. The province is generally considered highly insecure and replete with small arms in numerous depots and caches; the local price of an automatic weapon was said to be approximately $12. The former Rwandan government forces were believed to oppose President Museveni's Government because of its perceived role in support of the successful campaigns of the Rwandan Patriotic Front and the Congolese Alliance of Democratic Forces in 1994 and 1996 respectively. As a result, the ex-FAR have allied themselves with at least one armed anti-Government group in Uganda, the Allied Democratic Front (ADF). The ex-FAR and ex-FAZ are thought by some observers to be supplying weapons to ADF.

36. In his meeting with the Commission, also on 7 July 1998, Mr. Butime, the Minister for Internal Affairs, estimated that the ex-FAR and ex-FAZ comprised 40 per cent of the 500 ADF fighters. The Minister subsequently wrote to the Chairman mentioning companies from three countries, two in Europe and one in Africa, as having supplied weapons to the former Rwandan government forces and militia in 1994 and 1996. The Commission intends to write, if necessary, to the Governments concerned in its further investigation of the matter. The following day, the Minister of State for Political Affairs, Mr. Amama Mbabazi, spoke of a shipment of arms in contravention of the embargo, believed to be for the ex-FAR, which Uganda had impounded at Entebbe airport in 1996, but provided only sketchy details.

E. Activities in the United Kingdom of Great Britain and Northern Ireland

37. En route to Nairobi, some members of the Commission met in London in mid-May with Amnesty International to discuss the flow of arms in central and southern Africa and to develop additional contacts.

38. Between 22 and 26 June 1998, a member of the Commission revisited London to meet with a number of organizations and individuals, including Ms. Oona King, a member of the British Parliament and Chairman of the All-Party Group on Rwanda and the Prevention of Genocide. The Commissioner also met again with Amnesty International officials concerning the activities of the ex-FAR and arms transfers in East Africa, and with officials of other non-governmental

organizations as well as with private individuals familiar with air cargo operations in Africa. The Commissioner also obtained a large number of documents, including papers said to have been captured from the former Rwandan refugee camp of Mugunga in eastern Zaire, which was attacked by Banyamulenge and allied forces in November 1996. Some documents contain the names of companies that had apparently been supplying arms to the Rwandan government forces, and others describe military plans. The Commission will continue to study those documents with great care and take whatever follow-up action is necessary within the time remaining to it.

39. On the basis of documents found at Mugunga and now in its possession, the Commission has also been in preliminary contact with United Kingdom customs authorities concerning the apparent involvement of a British company in the sale of armaments to the ex-FAR after the imposition of the arms embargo in May 1994. Those allegations were widely publicized at the time of the attack on the camp in November 1996.

F. Activities in Zambia

40. In its third report on its activities and the addendum to it (S/1997/1010, para. 71 and S/1998/63, para. 32), the Commission described its exchange of correspondence with the Government of Zambia concerning allegations that weapons apparently destined for Goma and Bukavu had been shipped via Mpulungu, a port at the southern tip of Lake Tanganyika. The Zambian Government, in its reply dated 3 December 1996, had invited the Commission to participate in a joint investigation of the allegation.

41. Accordingly, the Commission visited Zambia from 29 July to 1 August 1998. During its visit the Commission met with Zambian government officials in Lusaka and travelled with them to Mpulungu.

42. On 29 July, the Commission met with the Zambian Minister for Foreign Affairs, Mr. S. K. Walubita, who informed the Commission that Zambia had investigated reports of arms shipments occurring via Mpulungu and determined that they were not true. However, the Minister also mentioned one incident in which armed men had intercepted a cargo ship on Lake Tanganyika and forced the crew to abandon its cargo of 100 tons of cement and to take on board a shipment of arms. The Commission subsequently investigated the incident in greater detail, as described below (see paras. 55 and 56), and considers it highly significant.

43. Also on 29 July, the Commission met with the Zambian Minister of Defence, Mr. Chitalu Sampa, who was concurrently serving as Acting Minister of Home Affairs. Other officials from the Ministries of Defence and Home Affairs as well as representatives of the police and immigration service also attended. Minister Sampa stressed that his Government was unaware of the shipment of arms through Zambia, but acknowledged that such shipments might take place. In that context, the Minister recalled that his Government had impounded two aircraft at Ndola Airport that were loaded with weapons apparently intended for the União Nacional para a Independência Total de Angola (UNITA). The aircraft had flown from Lanseria Airport in South Africa via Entebbe. The Permanent Secretary of

Home Affairs added that small arms were traded and sold in small quantities, but that this activity was not organized and occurred on a small scale.

44. The Commission learned nothing to contradict credible reports of arms shipments through Zambia, and noted that unless there were discrepancies in the accompanying documentation, customs officials did not physically inspect shipments passing through the country.

45. While in Zambia, the Commission heard from a well-informed and reliable source of possible links between elements of the ex-FAR/Interahamwe and ex-FAZ with UNITA. It was also informed that approximately 2,000 Rwandan Hutus described as "génocidaires" had fled the Democratic Republic of the Congo and were staying in Maheba camp in the north-western region of Zambia. The source also reported that Ndola Airport, in Zambia near the Congolese border, was widely believed to serve as an important hub of arms trafficking, mostly to UNITA, but also to the Great Lakes region. Those reports had led the Government of Zambia to take stricter measures to control the flow of cargo at Ndola Airport.

IV. CASE STUDY: LINKS BETWEEN THE FORMER RWANDAN GOVERNMENT FORCES AND BURUNDIAN INSURGENTS

46. In its third report (S/1997/1010, para. 108 (d)), the Commission stated its conviction that a close link existed at that time (October 1996) between the former Rwandan government forces and the Burundian Conseil national pour la défense de la démocratie (CNDD) and its military wing, the Front pour la défense de la démocratie (FDD) for armed action against both Rwanda and Burundi. That conviction has been further reinforced by documentary evidence now in the possession of the Commission (see appendix II) demonstrating that very close cooperation exists between the ex-FAR and two of the Burundian rebel groups: CNDD/FDD and the Parti pour la libération du peuple Hutu (PALIPEHUTU) and its military wing, the Forces nationales de libération (FNL). The collaboration between the ex-FAR and CNDD/FDD covers both political and military aspects.

47. A Convention of Cooperation (see appendix II) was signed by the High Command of FAR and CNDD on 22 May 1995 at Bukavu (Zaire), which formalized the cooperation between the two parties. The Convention was signed by Léonard Nyangoma, President of CNDD, and Major General Augustin Bizimungu, Commander and Chief of Staff of the ex-FAR. The Convention consists of a preamble that highlights the urgent need for both parties to share:

> "both material and financial resources and to coordinate all actions to be taken with a view to ensuring the final victory of the FAR and FDD".

The preamble also refers to "the dilatory and confused attitude of the international community towards our problems". The document then goes on to list specific actions, including the following:

> "- To establish a joint politico-military commission responsible for designing and elaborating joint strategies to harmonize our points of

view on common political problems and for suggesting ways and means of resolving them;

"- To elaborate a joint education and ideological mobilization programme in order to raise our peoples' awareness of the reasons and justification for our struggle;

"- To elaborate and implement strategies and mechanisms for diplomatic and media penetration in order to deflect the campaigns of demonization and globalization fed and maintained by our common and respective enemies."

48. The commission established by the Convention was also mandated:

"- To elaborate a programme of military cooperation and an inventory of logistic, financial and human resource requirements in order to ensure their coordination in the common interest; and

"- To establish a joint military and civilian information service and to provide for the training of ad hoc personnel in order to ward off the danger and destabilization threatening the two parties".

49. The Convention came into force with immediate effect.

50. Another document made available to the Commission (see appendix III) is a mission order signed at Bukavu on 4 March 1996 by the ex-FAR general, Gratien Kabiligi, and the Vice-President of CNDD, Christian Sendegeya. The order concerns the transfer of the ex-FAR Lt. Col. Gasarabwe to the staff of FDD temporarily.

51. A note signed by Mr. Sendegeya acknowledging receipt of $5,000 from General Kabiligi, signed at Bukavu on 31 March 1996, indicates some financial support from the ex-FAR to CNDD. The transaction was effected "in the context of a special relationship" (see appendix IV).

52. A more recent document illustrating the relationship between the Rwandan insurgent group ALIR and the Burundian rebel group PALIPEHUTU takes the form of a letter with letterhead of PALIPEHUTU/FNL addressed to Lt. Col. Nkundiye, then the commander of ALIR, written at Bubanza (Burundi) on 20 November 1997 by Abbé Nyandwi, the emissary of ALIR to the Burundian opposition. The letter mentions the presence of ex-FAR fighting alongside FNL in Burundi and describes an earlier written agreement that forms the basis for cooperation between Rwandan and Burundian insurgents as "a draft cooperation agreement between FNL and the ex-FAR, a document which is still open to possible further amendments". The letter includes the following description of the situation:

"The incessant fighting against the forces of the Rwandan Patriotic Army (RPA), our scarce supply of matériel, the lack of fresh supplies and the loss of human lives were all factors which caused us to withdraw to Burundi, where we found a significant number of Rwandan soldiers within the Forces Nationales de Libération (FNL), currently the most serious armed branch of the opposition."

The letter goes on:

> "I informed FNL of the special mission which you had entrusted to me, namely, to promote collaboration between ALIR and the Burundian opposition. The commanders of FNL were apprised of this request, and were very honoured and pleased about it. This collaboration has proved to be essential at this juncture, when FNL has advanced considerably in its struggle against the government army; with serious support from ALIR, this war could be ended, to the benefit of all Burundian and Rwandan Bahutu."

In an apparent reference to the Convention cited above, the writer adds:

> "This method of work should make it possible very shortly to resolve, once and for all, the longstanding Hutu-Tutsi problem in our subregion."

A copy of the letter appears in appendix V.

53. In addition to the above documentary evidence of political agreements between the ex-FAR and CNDD and the ex-FAR and PALIPEHUTU, there is evidence of cooperation at the operational level between their military wings. The Commission has become aware of a number of incidents that appear to show that the two parties to the Convention have indeed collaborated militarily. The two most significant are described below.

54. The Commission has discovered evidence of the military coordination called for by the Convention in the shipment of arms which, it has reason to believe, were intended for the use of the former Rwandan government forces in or around Rwanda. The incident was briefly mentioned to the Commission by the Zambian Minister for Foreign Affairs and investigated in greater detail by the Commission subsequently.

55. According to the information available to the Commission from government and other sources at Mpulungu, on 13 March 1997 the Rwegura, a 500-ton cargo ship registered in Burundi, left Mpulungu port in Zambia loaded with 100 tons of cement destined for Bujumbura. The following day, about half-way up Lake Tanganyika, the ship was forcibly stopped and boarded by a group of armed and uniformed men travelling in two large boats. The rebels, who spoke Kirundi and Kinyarwanda and who identified themselves as Burundian and Rwandan Hutus, ordered the ship to proceed towards Zaire and weigh anchor, where more armed men loaded the vessel with large quantities of arms and ammunition. Between 14 and 27 March, the ship was forced to stop at various points along the Zairian coastline to take on additional loads of arms and matériel. The rebels ordered the crew to dump the cargo of cement into the lake in order to accommodate the extra weight. It is estimated that as many as 400 armed men may have boarded the ship during that period. As the ship made its way northwards with its cargo of armaments, it came under attack by an aircraft believed to have originated in Burundi but suffered no serious damage. The Rwegura continued to a point off the Tanzanian coast about 10 kilometres south of Kigoma, where, on 28 March, the armed intruders unloaded the arms and ammunition and their personal belongings and set off inland.

56. On the basis of its inquiries among sources with intimate knowledge of this incident and of the peoples and languages of the regions bordering the lake, the Commission strongly believes that the armed men who seized the ship to transport arms comprised both CNDD/FDD fighters and ex-FAR personnel who had fled from the Uvira region after the Banyamulenge attacks of late 1996.

57. The Commission has also been informed that two columns of ex-FAR under the command of a major participated in the attack on Bujumbura airport on 31 December 1997, which resulted in the massacre of some 200 civilians.

58. The fact that CNDD/FDD is not subject to any arms embargo therefore represents a loophole through which the ex-FAR, through their collaboration with that and other Burundian armed groups, can acquire weapons and matériel in violation of the resolutions of the Security Council.

V. ADMINISTRATIVE AND BUDGETARY ASPECTS

59. In accordance with paragraph 6 of resolution 1161 (1998), the International Commission of Inquiry is financed entirely from the United Nations Trust Fund for Rwanda (Trust Fund for the International Commission of Inquiry into arms flows in the Great Lakes region of Central Africa), and receives no financing from the United Nations regular budget.

60. At the 3870th meeting of the Security Council, on 9 April 1998 when it adopted resolution 1161 (1998) reactivating the Commission, a number of speakers announced the intention of their Governments to contribute to the Trust Fund. They were Belgium ($100,000), Germany ($50,000), Japan ($40,000), the United Kingdom (100,000 pounds sterling) and the United States of America ($100,000). The Government of Belgium had also made a contribution of $100,000 to the Trust Fund in 1995, shortly after the adoption of resolution 1013 (1995) establishing the Commission. In meetings with the Chairman during the week of 4-8 May 1998, when the Commission visited New York for briefings and consultations, the representatives of France and Sweden also pledged to make contributions of $40,000 and $50,000 respectively. The Government of the Netherlands has also subsequently pledged $70,000 for the Commission's work.

61. Taken together, those contributions were estimated to be sufficient to finance the six-month period of operations envisaged in resolution 1161 (1998). However, at the time of the drafting of the present report, contributions had not yet been received from all the countries that had declared their intent to make them. Since spending authority can be issued only upon receipt of cash contributions, the great discrepancy and time lag between pledges and disbursements has led to serious disruptions and numerous administrative obstacles to the work of the Commission. The Commission, nevertheless, has persevered in its work as best it could under the difficult circumstances. The Commission strongly feels that if it is to successfully accomplish its mandate in the short time available, then the various financial and administrative difficulties encountered so far need to be resolved on an urgent basis. The Commission expresses its appreciation to the Governments that have pledged, and paid, contributions to the Trust Fund to support its work.

VI. OBSERVATIONS AND NEXT STEPS

62. The Commission will reserve its conclusions and recommendations for its final report, due in November 1998. At this stage, however, it is already clear that the situation that prompted the Security Council to establish the Commission in 1995 has become much more complex and difficult to interpret. Many questions remain to be answered about the impact of the physical dispersion of the former Rwandan government forces since 1996 on their long-term intentions, military planning and operational effectiveness, as well as about the implications of their alliances with other local rebel groups in their present countries of refuge and their capacity to achieve their objectives through the purchase of arms to be used in Rwanda in violation of the United Nations arms embargo.

63. The general picture that the Commission has been able to build up since its return to the region indicates that significant numbers of ex-FAR and militia personnel remain deeply hostile to the Government of Rwanda and are still committed to its violent overthrow. To that end, many of those who remain in both North and South Kivu provinces and those who have returned to north-western Rwanda since November 1996 are engaged in an insurgency against the Government characterized by repeated attacks against Rwandan civilians and government forces.

64. Several indications suggest that armed groups, especially Burundian insurgents and elements of the ex-FAZ and ADF in Uganda, are aiding and abetting the ex-FAR and closely collaborating with them, including in violations of the United Nations embargo. The Commission intends to investigate further credible accounts it has received concerning the relationship between elements of the ex-FAR and UNITA.

65. On the basis of the information it has gathered so far about the new profile of the ex-FAR, the Commission therefore intends, time and funding permitting, to pursue its investigations into reports of the sale or supply of arms to the former Rwandan government forces and militia and the parties aiding and abetting them. As essential background for those investigations, the Commission will continue to compile data showing the current geographical distribution of the former Rwandan government forces, their political activities and their military plans and intentions. The Commission will continue its efforts to indicate their approximate strength in each country, the alliances they have formed with local groups and their military and political activities, including rearmament, fund-raising and military training and intentions.

66. One of the most important countries on the Commission's future itinerary is the Democratic Republic of the Congo, whose territory, as Zaire, provided the backdrop for some of the most dramatic events involving the ex-FAR and Interahamwe. Repeated efforts by the Commission in 1995-1996 to obtain from the Government of Zaire information about breaches of the embargo on the ex-FAR proved fruitless, as described in the Commission's previous reports. In its second report (S/1996/195), the Commission concluded that the Zairian Government had aided and abetted what the Commission considered to be a highly probable violation that the Commission exposed in some detail.

67. Indirect and informal contacts conducted in New York and Kinshasa in May and June indicated that the Government of the Democratic Republic of the Congo would welcome a visit from the Commission and would be prepared to cooperate fully with it. The Commission requested from the Government an invitation to visit the country in a letter dated 11 June 1998 and had looked forward to receiving its cooperation during the course of its investigations. However, the Commission will now review its approach in the light of current developments in the Democratic Republic of the Congo.

68. The Commission also has provisional plans to visit Angola, Burundi, the Central African Republic, the Republic of the Congo, Mozambique, the United Republic of Tanzania and the Organization of African Unity, as well as any other countries in which ex-FAR activity can be detected to gather information from Governments, United Nations agencies, non-governmental organizations and other sources, as well as following up leads identified in the Commission's earlier investigations.

69. The complications in the situation arising from the links between the ex-FAR and other armed groups in the region should be viewed in the light of resolution 1011 (1995) of 16 August 1995, by which the Security Council prohibited the sale and supply of arms and related matériel to Rwanda or to persons in the States neighbouring Rwanda if such sale or supply was for the purpose of the use of such arms or matériel within Rwanda. During the previous three months the Commission has heard compelling reports of ex-FAR involvement in procuring weapons reportedly for use in Angola, Congo, the Democratic Republic of the Congo, Uganda and possibly elsewhere.

70. Moreover, the current upheavals throughout the central region of Africa are likely to prompt the ex-FAR and Interahamwe to forge new operational alliances with a variety of parties, thus opening up additional avenues for the provision of arms and related matériel to the ex-FAR and Interahamwe and further complicating the investigation of sources. The Commission will address those considerations when it formulates its recommendations to the Security Council in its final report, to be submitted to the Council in November.

Appendix I

List of countries visited and representatives of Governments and organizations interviewed

The International Commission of Inquiry wishes to express its deep appreciation to the government officials, diplomats, non-governmental organizations, individual relief workers, journalists and others who assisted it in its inquiries. The following list is incomplete in deference to the wishes of those who requested anonymity.

In Kenya

Government officials

Minister of Foreign Affairs

Representatives of States

Belgium
Burundi
Canada
China
Democratic Republic of the Congo
France
Mozambique
Rwanda
South Africa
Uganda
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Zambia

United Nations agencies and international humanitarian organizations

Office of the United Nations High Commissioner for Refugees
United Nations Children's Fund
United Nations International Criminal Tribunal for Rwanda
World Food Programme
Representative of the Secretary-General and Regional Humanitarian Adviser for for the Great Lakes Region
Operation Lifeline Sudan

Non-governmental organizations

Human Rights Watch
International Resource Group
Oxfam

In Rwanda

Government officials

Minister of State for Defence
Secretary-General of the Ministry of Defence
Diplomatic Adviser to the Vice-President
Rwandan Patriotic Party Chief of External Intelligence
Rwandan Patriotic Party Assistant Chief of External Intelligence

Representatives of States

Belgium
Germany
Netherlands
United States of America

United Nations agencies and international humanitarian organizations

Food and Agriculture Organization of the United Nations
Office of the United Nations High Commissioner for Refugees
United Nations Development Programme
United Nations Children's Fund
United Nations International Criminal Tribunal for Rwanda
World Food Programme

Non-governmental organizations

Human Rights Watch
Oxfam

In South Africa

Government officials

Minister of Justice
Minister for Water Resources and Forestry/Chairman of the National Conventional Arms Control Committee
Director-General of the Department of Foreign Affairs
Deputy Director-General of the Department of Foreign Affairs (Multilateral Affairs)
Director of the Defence Secretariat's Directorate of Conventional Arms Control
Executive Director of the National Interdepartmental Structure for Border Control
Deputy Director General of the Secret Service
Coordinator of Intelligence of the National Intelligence Coordinating Committee

Representatives of States

Belgium
France

United Nations agencies and international humanitarian organizations

United Nations Development Programme

Non-governmental organizations

Centre for Conflict Resolution (Cape Town)
Institute for Security Studies

In Uganda

Government officials

Minister of Internal Affairs
Minister of State for Foreign Affairs (Regional Cooperation)
Minister of State for Political Affairs
Minister of State for Security
Chairperson of Uganda's Human Rights Commission

Representatives of States

France
Italy
United Kingdom
United States

United Nations agencies and international humanitarian organizations

Office of the United Nations High Commissioner for Refugees
United Nations Development Programme
United Nations Children's Fund

Non-governmental organizations

Centre for Conflict Resolution
International Federation of Red Cross and Red Crescent Societies
Oxfam
World Vision

In the United Kingdom

Government officials

Member of Parliament

Non-governmental organizations

Amnesty International
International Alert
Saferworld

In Zambia

Government officials

Minister of Foreign Affairs
Minister of Defence
Deputy Minister of Foreign Affairs
Deputy Minister of Defence
Permanent Secretary of the Ministry of Defence
Permanent Secretary of the Ministry of Foreign Affairs
Deputy Permanent Secretary of the Ministry of Foreign Affairs
Deputy Commissioner of Police
Deputy Chief Immigrations Officer

Representatives of States

Egypt

United Nations agencies and international humanitarian organizations

United Nations Development Programme
World Food Programme

Non-governmental organizations

Zambian Red Cross Society

Appendix II

Convention de Coopération entre le Conseil national pour la défense de la démocratie et le Haut Commandement des Forces armées rwandaises

PRAMBULE.

Convaincus de l'impérieuse nécessité de résoudre définitivement les problèmes politico-militaires rwandais et burundais en vue d'instaurer dans nos Pays une véritable démocratie.

Convaincus de la ferme détermination des deux parties à tout mettre en oeuvre pour créer toutes les conditions suffisantes de sécurité pour le retour rapide des réfugiés rwandais et burundais dans leurs pays.

Convaincus de l'intérêt de mise en commun des moyens tant matériels que financiers et de la coordination de toutes les actions à mener en vue de s'assurer d'une victoire définitive des FAR et des FDD.

Convaincus de la menace de MUSEVENI qui soutient le pouvoir du FPR au RWANDA et de ses visées hégémoniques sur le BURUNDI qui risquent d'entraver sérieusement l'action des FAR et des FDD.

Convaincus que le sort et l'avenir politique de nos pays sont désormais intimement liés eu égard à l'attitude dilatoire et confuse de la Communauté Internationale en rapport avec nos problèmes.

Convaincus que de ce fait nous ne pouvons que compter sur la conjugaison de nos efforts et la complémentarité de nos actions.

Le CNDD et le Haut Commandement des FAR décident de mettre en place une CONVENTION DE COOPERATION qui définit les domaines d'intervention et les mécanismes de suivi de sa mise en application.

I. L'OBJET DE LA CONVENTION

La Coopération entre le CNDD et le Haut Commandement des FAR portera sur les domaines intéressant les deux parties notamment:

1. Dans les domaines Politique et Diplomatique.

Etant donné que les problèmes politiques de nos deux pays sont quasi identiques et sont perçus de la même manière sur l'échiquier régional et international, le CNDD et le Haut Commandement des FAR décident:

- de mettre en place une commission mixte politico-militaire chargée de concevoir et d'élaborer des stratégies communes permettant d'harmoniser nos points de vue sur les problèmes politiques communs et suggérer les voies et moyens pour les résoudre.

/...

d'élaborer un programme commun d'éducation et de mobilisation idéologique afin de sensibiliser nos deux peuples sur les raisons et le bien fondé de la lutte que nous menons.

d'élaborer et mettre en place des stratégies et des mécanismes de percée diplomatique et médiatique afin de déjouer les campagnes de diabolisation et de globalisation nourries et entretenues par nos ennemis communs et respectifs.

2. Dans les domaines militaires et de renseignement.

La même Commission est chargée:

- d'élaborer un programme de coopération militaire et d'inventorier les besoins logistiques, financiers et humains afin d'assurer leur coordination pour l'intérêt commun.

- de mettre sur pied un service commun de renseignement militaire et civil et de pourvoir à la formation du personnel ad hoc pour parer à la menace et à la déstabilisation qui pèse sur les deux parties.

II. MECANISME DE MISE EN APPLICATION ET DE SUIVI DE LA PRESENTE CONVENTION.

- Pour mettre en application la présente convention, le CNDD et le Haut Commandement des FAR désigneront à cette fin, après la signature de celle-ci, quatre personnes composant la Commission dont question plus haut au chapitre de l'OBJET DE LA CONVENTION.

- Les signataires de la présente convention pourront juger à tout moment de l'opportunité de modifier ou d'élargir la composition de ladite commission sur demande de l'une ou des deux parties signataires.

- Les modalités de fonctionnement de cette commission seront définies par son règlement intérieur qui sera soumis pour approbation aux signataires de la présente convention.

III. MISE EN VIGUEUR DE LA CONVENTION.

La présente convention entre en vigueur à la date de sa signature et est établie en deux exemplaires.

Fait à BUJAVU le ..28..Août..1998..

Pour le CNDD

NYANYOMA Léonard
Président du CNDD

Pour le Haut Commandement des FAR

BIZIMUNGU Augustin
Général Major
Commandant des FAR
et Chef d'Etat-Major des FAR

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Appendix III

SECRET

ORDRE DE MISSION

Les Comdt des FAR et le CNDD decident conjointement de confier au Lt Col GASARABWE Edouard, une mission d'expert auprès de l'Etat-Major des FDD.

L'objet de la mission est définie comme suit:

> Lt COL GASARABWE Edouard est temporairement détaché auprès de l'Etat-Major des FDD pour une mission d'expert et d'assistance technique aux opérations menées par les FDD.
>
> Le Lt Col GASARABWE prendra contact avec le Chef EM des FDD pour recevoir le contenu du cahier des charges de la mission lui confiée.

BUKAVU, Le 04 Mars 1996

Le Comd des FAR

BIZIMUNGU Augustin
Gen Maj
PO
KABILIGI Gratien
Gen Bde

Le Président du CNDD

NYANGOMA Léonard

PO
SENDEGEYA Chrystian

SECRET

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Appendix IV

Annexe XIII g.

Bukavu, le 31 Mars 1996

Reçu du Gen Bde KABILIGI
Gratien la somme de CINQ MILLE DOLLARS
(5.000 US$) dans le cadre des rela-
tions privilégiées.

SENGEGEYA Christian
Vice-Président du CNSD

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Appendix V

REPUBLIQUE DU BURUNDI
PALIPEHUTU
JUSTICE - PAIX- DEVELOPPEMENT
FORCES NATIONALES DE LIBERATION (F.N.L)
UBUGABO BURIHABWA

BUBANZA 20 / 11 / 1997

Au Lieutenant-Colonel NKUNDIYE,
Chef d'Etat-Major de l'Armée pour
la Libération du RWANDA

Lors de notre rencontre au mois d'août 1997, notre entretien était centré sur les thèmes suivants :

- les conditions de travail de l'A.L.I.R dans le secteur F, secteur qui était en voie de création, et les priorités y relatives;
- Contacter nos amis les anciens militaires des Forces Armées Rwandaises et nos partisans disséminés dans le secteur F et toute la zone territoriale de la forêt de Nyungwe;
- assurer la liaison entre l'ALIR et l'opposition burundaise.

Notre contingent s'est heurté, dès son arrivée dans le secteur F, à des conditions de travail très difficiles, voire insurmontables; ce qui avait été le cas de nos précurseurs du bataillon KAGORA.
Les luttes incessantes contre les militaires de l'APR, nos faibles moyens en matière d'armement, le manque de ravitaillement et les pertes humaines, tous ces facteurs réunis ont occasionné notre repli vers le Burundi où nous avons rencontré un nombre assez important de militaires Rwandais au sein des Forces Nationales de Libération (F.N.L), la plus sérieuse branche armée de l'opposition pour le moment.

J'ai fait part aux F.N.L de la mission spéciale dont vous m'aviez chargée, à savoir la collaboration entre l'ALIR et l'opposition burundaise. L'Etat-Major des F.N.L est saisi de cette requête et s'en trouve beaucoup honoré et réjoui. Cette collaboration s'avère indispensable en ce moment-ci où les F.N.L sont fort avancés dans leur lutte contre l'armée gouvernementale; un soutien sérieux de la part de l'ALIR terminerait cette guerre au profit de tous les Bahutu Burundais et Rwandais.
Cette collaboration entre Burundais et Rwandais est déjà effective comme en fait foi un protocole d'accord de coopération entre le F.N.L et les anciennes FAR, un document toujours ouvert à des amendements ultérieurs possibles. L'exploitation de ce schéma de travail permettra, dans les plus brefs délais, de résoudre pour toujours le problème séculaire Hutu-Tutsi dans notre sous-région.

Nos entretiens passés portaient principalement sur mon rôle de pont entre Burundais et Rwandais combattant l'oppression tutsi. La présence d'officiers rwandais au sein des F.N.L rend ma mission inutile, un militaire étant mieux indiqué pour remplir cette tâche.

Je vous prie donc de confier à un officier rwandais le suivi de la future collaboration entre l'ALIR et l'opposition burundaise. AMITIES !

Abbé Athanase-Robert NYANDWI